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| Long Service Leave in Victoria |
| Fact Sheet No. 3Long service leave and terminationof employment |



The new Long Service Leave Act 2018 (LSL Act 2018) commenced operation on 1 November 2018. It replaces the Long Service Leave Act 1992, following a legislative review, and broad industry and community consultation. The LSL Act 2018 brings long service leave into line with community standards, is easier to understand, and is fairer and more flexible.

The LSL Act 2018 covers most Victorian employees. However, the LSL Act 2018 will not apply to certain employees who are covered by federal enterprise agreements or pre-reform awards, or by other Victorian legislation that includes long service leave entitlements, e.g. the Construction Industry Long Service Leave Act 1997 administered by CoINVEST for workers in the construction industry.

**This fact sheet is a summary only and must be read in conjunction with more detailed information including the Comprehensive Guide to the Long Service Leave Act 2018 and the LSL Act 2018 to establish whether it applies to your individual circumstances.**

#### What happens when employment ends?

Employees are entitled to take long service leave after a minimum of 7 years continuous employment. If employment ends after 7 years for any reason, the employee must be paid in lieu of their accrued entitlement, less any leave already taken. The amount is to be paid in full on the final day of employment.

The amount of leave an employee is entitled to take (or the payment in lieu of that leave) is calculated on one-sixtieth of the period of employment, i.e. the number of weeks employment divided by 60 equals the number of weeks entitlement. For example, if an employee has worked for 7 years, convert this to weeks, divide by 60, and this equals approximately 6.1 weeks. 6.1 weeks is the long service leave entitlement at that time.

 (Also see ‘calculation of ordinary pay’ Fact Sheet No. 7).

#### Termination and sale of business

If termination of employment occurs because of a sale of a business and the employee is not to be employed by the new owner, then the employer must pay the employee their long service leave on the termination date.

If, however, a business is sold, and the new owner continues the employment of an employee at that business, the new employer must recognise the employee’s period of employment with the previous employer. Similarly, if an employee performs work in relation to assets used in the carrying on of a business, and those assets are transferred, employment will be continuous if the new owner of the assets continues the employee’s employment.

#### Offence to fail to pay an employee long service leave on termination

It is a criminal offence for an employer to fail to pay an employee, on their final day of employment, of long service leave accrued and not yet taken

#### For more information, see our Comprehensive Guide

The Victorian Government has published a Comprehensive Guide to the Victorian Long Service Leave Act 2018. This replaces the 1992 version and will make it easy for employers and employees to understand their rights and obligations.

The 2018 Comprehensive Guide is available to download at business.vic.gov.au/longserviceleave or call 1800 287 287 for a copy.

#### Wage Inspectorate contact details

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